

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Improving Public Safety Communications)
in the 800 MHz Band)
)
Consolidating the 900 MHz)
Industrial/Land Transportation and)
Business Pool Channels)

WT Docket No. 02-55

To the Commission:

**COMMENTS OF IRIDIUM SATELLITE LLC
ON THE PROPOSED "CONSENSUS PLAN"**

Iridium Satellite LLC ("Iridium") hereby responds to the Public Notice¹ released by the Commission on September 6, 2002, requesting comment on the "Consensus Plan" proposed in the instant proceeding by Nextel Communications, Inc. ("Nextel") in its reply comment filed August 7, 2002 ("Nextel Reply").

In its initial comments in this proceeding, Iridium opposed bestowing upon Nextel free nationwide spectrum presently held in reserve for the expansion of the mobile satellite service ("MSS"). Iridium noted, inter alia, that Nextel's commonly-controlled affiliate, ICO Global Communications (Holdings) Limited ("ICO"), simultaneously was attempting to convince the Commission to let it use nationwide MSS spectrum for the provision of "ancillary" terrestrial services in IB Docket No. 01-185. Iridium demonstrated that, for a variety of reasons, the public interest would not be served by granting Nextel/ICO free access to MSS spectrum for terrestrial use.

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¹ Public Notice, Wireless Telecommunications Bureau Seeks Comment on "Consensus Plan" Filed in the 800 MHz Public Safety Interference Proceeding, DA 02-2202 (released September 6, 2002).

In its Reply, Nextel denies that it and ICO "are affiliates and are working together to develop a dominant satellite/terrestrial network in the 2 GHz band that would deter investment in other 2 GHz MSS systems . . . There is no validity to this charge."² Nextel goes on to assert that it and ICO "are distinct legal entities with fiduciary obligations to their shareholders and their own separate business goals. There is no coordinated effort between them with respect to the 2 GHz band."³

These assertions are belied by every known fact. While Nextel and ICO are "distinct legal entities," they clearly are affiliated under any common sense use of that term. It is common knowledge that they both are under the substantial influence -- if not de facto common control -- of Mr. Craig McCaw, who either directly (in the case of Nextel) or indirectly (in the case of ICO) serves on the board of directors of both companies and owns substantial equity stakes in both (directly and through his Eagle River, Inc. investment company, of which Mr. McCaw is Chairman; Eagle River's Vice Chairman, Dennis Weibling, hold similar interests in Nextel and ICO).

This commonality of interest has led to the following "coincidences:"

1. In IB Docket No. 01-185, ICO's proposal to permit MSS licensees to provide "ancillary" terrestrial services has led to an attack on the very existence of the 2 GHz MSS allocation, an assault led by all of the major CMRS providers, save for one: Nextel.
2. Nextel, alone among the leading CMRS providers, has not opposed ICO's proposal that it be permitted to use its nationwide 2 GHz MSS license to

² Nextel Reply at 36 n.76.

³ Id.

provide “ancillary” terrestrial services.⁴

3. ICO, despite its strenuous efforts to defend the 2 GHz MSS allocation in IB Docket No. 01-185, has not opposed Nextel’s efforts in the instant proceeding to convert 2 GHz MSS spectrum to solely terrestrial use.

Iridium submits that, notwithstanding Nextel’s denials, there most certainly is a “coordinated effort” by these commonly-controlled entities to convert significant portions of the 2 GHz band to purely terrestrial use, thereby, inter alia, substantially reducing the likelihood of robust competition in the MSS industry. The Commission should not assist them in this effort.⁵

⁴ The only statement by Nextel in IB Docket No. 01-185 that Iridium is able to locate appears in a letter from Nextel’s counsel to the Secretary, giving notice of an ex parte meeting between Nextel representatives and various Commission staff:

The participants discussed the potential terrestrial wireless use of [MSS] spectrum as raised in [IB Docket No. 01-185, et al.]. Nextel supported the concept that some spectrum currently allocated for MSS should be made available for terrestrial wireless use.

See Letter to Magalie Roman Salas, Secretary, from Christina H. Burrow, Esq., attorney for Nextel, dated October 22, 2001, at 1. Whether this cryptic statement represents an endorsement of ICO’s position in that proceeding, or was meant to pave the way for the Nextel “White Paper” that was filed with the Commission one month later (precipitating the instant proceeding), it most certainly is not the strident condemnation of ICO’s position voiced by the rest of the CMRS industry.

⁵ ICO’s proposed acquisition of the 2 GHz MSS licenses currently held by Constellation Communications Holdings, Inc. and Mobile Communications Holdings, Inc. further illuminates this effort. If consummated, that transaction could leave ICO with 21 MHz of essentially free nationwide spectrum with which to provide “ancillary” terrestrial service.

CONCLUSION

For all the reasons set out in its prior comments in the instant proceeding and in its comments in IB Docket No. 01-185, Iridium submits that the public interest would not be served by granting Nextel access to any portion of the 2 GHz MSS band.

Respectfully submitted,

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